

DECLARATION OF PROTECTIVE COVENANTS

FOR

BONNIE BRAE SUBDIVISION

THIS DECLARATION is made on this the 2nd day of January, 1998, by D.R. Horton, Inc. - Torrey, a Delaware corporation ("Declarant"):

WITNESSETH

WHEREAS, Declarant is the owner of the real property described on Exhibit "A"; and

WHEREAS, Declarant desires to subject the real property described on Exhibit "A", and possibly other property, to the provisions of this Declaration to create a residential community of single-family housing,

NOW THEREFORE, Declarant hereby declares that the real property described on Exhibit "A" of this Declaration, including any improvements which may be (but are not required to be) constructed on that property, is subjected to the provisions of this Declaration. Such real property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, contained in this Declaration. The provisions of this Declaration shall run with the title to the property subjected to this Declaration. This Declaration shall be binding on all persons having any right, title, or interest in all or any portion of the property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

1. Definitions

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

- a. "Area of Common Responsibility" shall mean the Common Property, together with such other areas, if any, for which the Association has responsibility pursuant to this Declaration, any recorded plat, other covenants, contracts or agreements.
- b. "Association" shall mean Bonnie Brae Homeowners Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.
- c. "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under South Carolina law.
- d. "Bylaws" shall refer to the Bylaws of the Association, attached as Exhibit "C".

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- e. "Common Property" shall mean, if any, the real property, interests in real property, and personal property, easements and other interests, together with improvements located on that property (if any) which are now or are hereafter owned by the Association for the common use and enjoyment of some or all of the Owners.
- f. "Community" shall mean the real property and interests described on Exhibit "A", and such additions to that property as may be made by Declarant or by the Association pursuant to this Declaration.
- g. "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination must be consistent with the Community-Wide Standard originally established by the Declarant.
- h. "Declarant" shall mean that person or entity executing this Declaration as Declarant. The Declarant may appoint and designate a successor Declarant by designating such appointment or designation in a deed filed in the real property records of the Office of the Register of Mesne Conveyances, Greenville County, South Carolina.
- i. "Declaration" shall mean this Declaration of Protective Covenants and include any Supplemental Declaration.
- j. "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed on that land, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property and membership in the Association.
- k. "Mortgage" means any mortgage, security deed, deed of trust, or similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.
- l. "Mortgagee" shall mean the holder of a Mortgage.
- m. "Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.
- n. "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community; excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation.
- o. "Person" means a natural person, corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.
- p. "Supplementary Declaration" means an amendment or supplement to this Declaration

which subjects additional restrictions and obligations on the land described therein, or both.

- q. "Total Association Vote" means all of the votes attributable to members of the Association. If the Total Association Vote is taken during a time while Declarant has the right to appoint members of the Board of Directors, a Total Association Vote approving some item or proposition must contain the affirmative vote of Declarant or the item or proposition will be deemed not to have been approved.

2. Property Subject To This Declaration

- a. Property Subjected To This Declaration. The real property which is subject to the covenants and restrictions contained in this Declaration is the real property described in Exhibit "A".
- b. Other Property . Only the real property described in Section 2 (a) is made subject to this Declaration. However, Declarant may subject the additional property it owns described on Exhibit "B" or described in Section 9(a) by recording one or more Supplementary Declarations as described in Section 9(a). Additionally, Owners of property described on Exhibit "B" other than the Declarant may subject such property to this Declaration by filing a Supplementary Declaration as described in Section 9(b).

3. Association Membership and Voting Rights

- a. Membership. Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.
- b. Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. The Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

4. Assessments.

- a. Purpose of Assessment. The assessments provided for in this Declaration shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots, as may be authorized from time to time by the Board.
- b. Creation of the Lien and Personal Obligation for Assessments. Each Owner agrees to

timely pay to the Association: (a) annual assessments or charges; (b) special assessments; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Each Owner also agrees to pay reasonable fines as may be imposed in accordance with the terms of this Declaration.

- c. Late Charges. All assessments, shall accrue late charges, interest (not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due), costs, including without limitation, reasonable attorney's fees actually incurred. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made, and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due.
- d. Personal Liability. Each Owner shall be personally liable for the portion of each assessment coming due while the owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.
- e. Certificate of Payment. The Association shall, within five (5) business days after receiving a written request, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate shall be binding upon the Association as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this certificate.
- f. Annual Assessments. Annual assessments shall be levied equally on all similarly situated Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may allow annual assessments to be paid periodic payments, and the Board shall have the right to accelerate any unpaid annual installments in the event an Owner is delinquent. Unless otherwise provided by the Board, the assessment shall be paid in annual installments.
- g. Computation of Annual Assessments. The Board shall prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall cause the budget and the assessments to be mailed or delivered to each Member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget in effect for the then current year shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.
- h. Special Assessments. In addition to the other assessments authorized by this Declaration, the Association may levy special assessments from time to time. Special Assessments must be approved at a meeting by two-thirds (2/3) of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in

which the special assessment is imposed.

- i. Lien for Assessment. All sums assessed against any Lot, Owner or Member pursuant to this Declaration shall be secured by a lien on such Lot in favor of the Association.
- j. Priority. The lien of the Association shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; (b) liens for all sums unpaid on a first priority Mortgage or Deed to Secure Debt, or (c) a lien arising by virtue of any Mortgage in favor of Declarant which is duly recorded in the land records of the county where the Community is located. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to acknowledge that their liens shall be inferior to the lien of the Association for assessments in existence at that time or which arise in the future.
- k. Effect of Nonpayment of Assessment. Any assessments (or installments) which are not paid when due shall be delinquent. Any assessment (or installment) which is delinquent for a period of more than ten (10) days shall incur a late charge in an amount set by the Board. If the Assessment is not paid within thirty (30) days, a lien shall attach. The lien shall cover all assessments then due or which come due until the lien is canceled of record, and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid after thirty (30) days, the Association institute suit to collect such amounts and foreclose its lien. The Association shall have the right to foreclose its lien any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, convey the same.
- l. No Set Off or Deduction. No Owner may waive or otherwise exempt himself from liability for the assessments provided for in this Declaration. No setoff, diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.
- m. Application of Payments. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.
- n. Date of Commencement of Assessments. Assessments shall start on the first day of the month following the sale of the Lot from the Declarant to a Person. However, the sale of a Lot to a Person for the purpose of construction of a home and subsequent sale of that newly constructed home shall not cause assessments to commence. The first annual assessment shall be adjusted according to the number of days then remaining in that fiscal year.
- o. Specific Assessment. The Board shall have the power to specifically assess pursuant to this Section as it shall deem appropriate, in its sole discretion. Failure of the Board to

exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may also specifically assess Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association):

- i. Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received; and
 - ii. Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.
- p. Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (but shall not be required to):
- i. advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association and the sum of the annual, special and specific assessment collected by the Association in any fiscal year. Such advances shall, upon request of Declarant, be evidenced by promissory notes from the Association in favor of the Declarant. The failure of Declarant to obtain a promissory note shall not invalidate the debt; or
 - ii. cause the Association to borrow such amount, or a general borrowing from a third party at the then prevailing rates for such a loan in the local area of the Community. Declarant, in its sole discretion, may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan; or
 - iii. acquire property for, or provide services to, the Association or the Common Property. Declarant shall designate the value of the property or the services provided and such amounts, at the request of the Declarant, be evidenced by a promissory note. Failure to obtain a promissory note shall not invalidate the obligation referred to in this Section.
5. Maintenance & Conveyance of Common Property to Association
- a. Association's Responsibility. The Association shall maintain in good repair the Common Property, including (without limitation) maintenance, repair, and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain all lakes, dams, spillways and overflow pipes on or about the Subdivision or any lot thereon, to the extent maintenance of is required and same are not otherwise maintained by a governmental entity or third party.

- i. The Association shall also maintain all entry features, and common areas, operate and maintain street lights (if not maintained and operated by a governmental entity) for the Community including the expenses for water and electricity, if any, provided to all such entry features; all storm water detention facilities and easements serving the Community (to the extent such facilities and easements are not maintained by a governmental entity); and all property outside of Lots located within the Community which was originally maintained by Declarant. The Association shall also maintain any cemetery lots located in the Subdivision, without regard to whether or not same are located on a lot or Common Areas.
 - ii. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community, where the Board has determined that such maintenance would benefit the Owners.
 - iii. In the event that the Association determines that the need for maintenance, repair, or replacement of property described in (i) or (ii) above is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered or paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be an Assessment against such Owner subject to the Association's lien and collection rights provided for in this Declaration.
 - iv. The maintenance shall be performed consistent with the Community-Wide Standard.
- b. Owner's Responsibility. Except as provided in (a) above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. In the event that the Board determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible, the Association may perform such maintenance, repair or replacement for the Owner at the expense of the Owner. Except in an emergency situation, the Association shall give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement. The notice shall set forth with reasonable particularity the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs shall be an assessment.
- c. Conveyance of Common Property by Declarant to Association. The Declarant may

convey to the Association any personal property, any improved or unimproved real property, leasehold, easement, or other property interest located within or adjacent to the Community. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its Members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

6. Use Restrictions and Rules.

- a. General. This Section sets out certain use restrictions which must be compiled with by all Owners and Occupants. These use restrictions may only be amended as provided in this Declaration. In addition, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a majority of the Total Association Vote.
- b. Residential Use. All Lots shall be used for residential purposes exclusively. No business or business activity shall be carried on in or upon any Lot at any time except with the written approval of the Board. Leasing of a Lot shall not be considered a business or business activity. However, the Board may permit a Lot to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Declaration or By-laws, does not create a disturbance and does not unduly increase traffic flow or parking congestion. The Board may issue rules regarding permitted business activities. The Declarant shall have the right to operate a sales office and a construction office from one or more Lots within the Community.
- c. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. Except as provided above, no exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, color, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee to be established by the Board.
 - i. The Architectural Review Committee may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction.
 - ii. The Board may employ architects, engineers, or other persons as it deems necessary to enable the Architectural Review Committee to perform its review.
 - iii. The Architectural Review Committee may, from time to time, delegate any of its

rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated.

- iv. Written design guidelines and procedures shall be promulgated for the exercise of this review, which guidelines may provide for a review fee.
- v. So long as the Declarant owns any property for development or sale in the Community, the Declarant shall have the right to appoint all members of the Architectural Review Committee. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the Architectural Review Committee.
- vi. If the Architectural Review Committee fails to approve or to disapprove submitted plans and specifications within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the Architectural Review Committee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Architectural Review Committee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in this Declaration, record in the appropriate land records a notice of violation naming the violating Owner.
- vii. Plans and specifications are not approved for engineering or structural design or quality of materials, and by approving such plans and specifications neither the Architectural Review Committee, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the Architectural Review Committee, the Board, nor the officers, directors, members, employees, and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any owner of property affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every owner agrees that such person or owner will not

bring any action or suit against Declarant, the Association, the Architectural Review Committee, the Board, or the officers, directors, members, employees, and agents of any board, or the officers, directors, members, employees, and agents of any of them to recover any damages and hereby releases, remises, quitclaims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

- viii. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Architectural Review Committee. Notwithstanding the foregoing, the Board and the Declarant shall have the right to erect reasonable and appropriate signs. One "For Sale" or "For Rent" sign and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.
- ix. Vehicles. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans and automobiles. Unless and except to the extent that the Occupants of a Lot shall have more vehicles than the number of parking areas serving their Lot, all vehicles shall be parked within such parking areas. Where the Lot contains a garage, "parking areas" shall refer to the number of garage parking spaces. All single-family detached homes shall contain a garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage.
- (1) No vehicle, boat, motor home, trailer, or recreational vehicle or trailer may be left upon any portion of the Community for a period longer than five (5) days, unless it is stored in a garage or stored in another area designated or approved by the Board. Vehicles, boats, motor homes, trailers or recreational vehicles which are either unlicensed or inoperable for a period of five (5) days or more may not be stored upon any portion of the Community at any time unless fully enclosed in a garage.
 - (2) No unlicensed vehicle shall be left upon any portion of the Community, except in a garage or other area designated by the Board.
 - (3) Such vehicles identified in (1) and (2) above must be removed by the Owner. The Association shall have the right to remove any such vehicle if not removed by the Owner within ten (10) days of notice, and the costs of such removal shall be an assessment against such Owner.
 - (4) Trucks with mounted campers which are an Owner's or Occupant's

primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

- x. Off Road. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.
- xi. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the owner and specifically assess all costs associated therewith against the Owner and the Owner's property.
- xii. Occupants Bound. All provisions of the Declaration, By-laws, and of any rules

primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

- x. Off Road. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.
- xi. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least six (6) months. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the owner and specifically assess all costs associated therewith against the Owner and the Owner's property.
- xii. Occupants Bound. All provisions of the Declaration, By-laws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.
- xiii. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number, as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall be kept on a leash when outside of an owner's residence. No pet which has caused any damage or injury shall be walked in the community, whether on a leash or otherwise. All pets shall be registered, licensed and vaccinated as required by law. Pets which endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or occupants must be removed by their owner upon request of the Board.
- xiv. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within

purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

- xv. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.
- xvi. Antennas. Unless and to the extent otherwise provided by law, no exterior antennas of any kind, including, without limitation, satellite dishes, shall be placed, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Architectural Review Committee. Satellite Dishes which are dark gray or black in color and are 40 inches or less in diameter shall be allowed, provided they are not visible from the street, installed upon or adjacent to a residence, and are integrated with the surrounding landscape.
- xvii. Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Architectural Review Committee. However, no flowering trees, including, without limitation, dogwood trees, regardless of their diameter, shall be removed without the prior written consent of the Architectural Review Committee. Notwithstanding all of the above, no consent or approval is required for the removal of any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a septic field, a sidewalk, a residence, a driveway or the line formed by the highest normal pool elevation of any lake.
- xviii. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may alter, obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains, the right to alter same being expressly reserved to Declarant.
- xix. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.
- xx. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, hot tubs, spas, and related equipment, and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant reserves the right to dump and bury material on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury material removed from a building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community except that Declarant may maintain a "burn pit" during

development and construction of the Community.

- xxi. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations. Declarant's right to replat any Lot shall include the right to change the configuration of streets and otherwise make changes on the final plat for the Community as to how the streets and common areas in the Community are laid out.
- xxii. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes rifles, pistols, "BB" guns, pellet guns, and small firearms of all types.
- xxiii. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any Lot without the prior written consent of the Architectural Review Committee. Under no circumstances shall any fence be placed, erected, allowed, or maintained upon any Lot closer to the street than the rear one-third (1/3) of the residence located on the Lot. Only shadow-box or standard picket style privacy fencing constructed of six (6) foot maximum height, dog-eared, unpainted, cedar or four (4) foot maximum height rough sawn or split rail, unpainted, cedar fencing shall be approved by the Architectural Review Committee. Notwithstanding the foregoing, the Declarant shall have the right to erect fencing of any type, at any location, on any Lot during the period that such Lot is being used by Declarant as a model home. The Board of Directors shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Property.
- xxiv. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Community, except for temporary lines as required during construction, and lines installed by or at the request of Declarant.
- xxv. Air-Conditioning Units No window air conditioning units may be installed.
- xxvi. Lighting. Except as may be permitted by the Architectural Review Committee, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) One (1) decorative post light, (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; or (e) front house illumination of model homes.
- xxvii. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the Architectural Review Committee.

- xxviii. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Review Committee.
- xxix. Swimming Pools and Hot Tubs. No swimming pool shall be constructed, erected or maintained upon any Lot. Hot tubs and portable spas shall not be permitted without the prior written consent of the Architectural Review Committee and then only if enclosed by an approved fence.
- xxx. Gardens and Play Equipment. No vegetable garden, statuary or play equipment (including, without limitation, basketball goals) shall be erected on any Lot without the prior written consent of the Architectural Review Committee, and any such items must be located between the rear dwelling line and the rear lot line. Without limiting the foregoing, basketball goals may be installed providing they are constructed of black poles, permanently mounted, not visible from the street, and the Architectural Review Committee approves the location, height and type of goal and post.
- xxxi. Mailboxes. All mailboxes located on Lots shall be of a similar style approved by the Architectural Review Committee. Replacement mailboxes may be installed after the type has been approved in writing by the Architectural Review Committee.
- xxxii. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling, must be approved by the Architectural Review Committee.
- xxxiii. Clothesline. No exterior clotheslines of any type shall be permitted upon any Lot.
- xxxiv. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs less than 6" by 6" placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.
- xxxv. Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the Architectural Review Committee.
- xxxvi. Storage Sheds and Garages. Construction, installation or placement of a storage shed, tree house, play house, detached garage, or a building separate from the main house on the Lot is not permitted without the prior written consent of the Architectural Review Committee. in its sole discretion. All plans (which must include the length, width, height, materials, colors, and location) must be

submitted to the Architectural Review Committee for written approval prior to obtaining building permits or starting construction. The structure must be constructed, installed or placed in a location inconspicuous as much as possible from public view. No two story structures of this nature are permitted on any Lot within the Community. All materials used in the construction of such buildings must match the main dwelling located on the Lot.

xxxvii. Lakes. Any lake or pond shall be used for surface water drainage and recreational purposes during daylight hours, including boating and fishing, but excluding the use of motor boats, except when needed for maintenance. Ice skating, water skiing, wind sailing, swimming or any other type or form of water sport or activity shall not be permitted. No Owner of a Lot may construct a dock or mooring within the Community. No retaining walls and similar structures shall be installed. The general public shall be prohibited from use of the lakes, which includes fishing and boating.

7. Insurance and Casualty Losses.

- a. Insurance on Common Property. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.
- b. Liability Insurance. The Board shall obtain a general commercial liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00). If available, the Board is authorized to obtain directors' and officers' liability insurance coverage.
- c. Declarant. The Board is authorized to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof. The Board shall not be required to comply with the provisions of this Section if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.
- d. Premiums. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.
- e. Miscellaneous. All such insurance coverage obtained by the Board of Directors shall be

written in the name of the Association, as trustee for the respective benefitted parties, as further identified below. Such insurance shall comply with these provisions:

- i. All policies shall be written with a company authorized to do business in South Carolina.
- ii. Exclusive authority to settle losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- iii. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- iv. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually.
- v. The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
 - (1) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;
 - (2) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - (3) that no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;
 - (4) that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;
 - (5) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
 - (6) that no policy may be canceled, subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association.

- vi. In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the three (3) months' assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the U.S. Department of Veterans Affairs, or the U.S. Department of Housing and Urban Development.
- f. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket "all-risk" casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.
- g. Damage and Destruction -- Insured by Association
- i. In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building

codes. The Board shall have the enforcement powers specified in this Declaration necessary to enforce this provision.

- ii. Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.
- iii. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.
- iv. In the event that it is determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.
- h. Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in this Declaration.
- i. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

8. Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of this Declaration applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.
9. Annexation of Additional Property.
- a. Unilateral Annexation By Declarant
- i. The Declarant shall have the unilateral right, privilege, and option from time to time until five (5) years after the recording of this Declaration to subject to the provisions of this Declaration the following property ("Annexation"):
- (1) all or any portion of the real property described in Exhibit "B";
 - (2) any property which is adjacent to the property described on Exhibit "A"; and
 - (3) any tract of land, of which any portion is located within a five (5) mile radius of the property described in Exhibit "A".
 - (4) annexation may be accomplished by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being subjected.
 - (5) any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless otherwise provided therein.
 - (6) Declarant shall have the right, in connection with the annexation of other property, to modify the terms of this Declaration as it may apply to the annexed property.
 - (7) As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.
- ii. The rights reserved unto Declarant to subject additional land to the Declaration shall not impose any obligation upon Declarant to subject any of such additional land to this Declaration or the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any to impose any covenants and restrictions similar to those contained

herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

b. Other Annexation.

- i. The Lots owned by Persons other than the Declarant and described on Exhibit "B" may become subjected to this Declaration and full members of the Association upon the adoption of an amendment to the Amended Declaration of Covenants, Conditions and Restrictions for the Woods at Bonnie Brae, Phase I, recorded in the Offices of the RMC for Greenville, South Carolina, in Deed Book 1578, Page 261, *et seq.* (the "POA Declaration") which replaces the POA Declaration with this Declaration in an instrument in substantially the form attached as Exhibit "D." Such amendment shall be executed by the Woods at Bonnie Brae Property Owners Association, Inc. ("POA"), owners holding not less than 75% of the outstanding votes in the POA, and be recorded in the Offices of the RMC for Greenville, South Carolina. Upon duly recording the amendment, the property subject to the POA Declaration shall become a part of the Community and shall be subject to this Declaration as if originally described herein. Such property shall not be withdrawn or removed for any purpose.

Notwithstanding the submission of such Lots to this Declaration, if such Lots are have been previously been submitted to that certain Declaration of Covenants, Conditions and Restrictions for the Woods at Bonnie Brae Subdivision (the "Covenants"), recorded in Deed Book 1583, Page 819, in the Office of the RMC, Greenville County, South Carolina, to the extent that any provisions of the Declaration are inconsistent with the provisions of the Covenants, the Covenants shall control unless the Covenants are terminated or amended by the owners of property subject thereto.

- ii. Subject to the consent of the owner(s) thereof and the consent of the Declarant (so long as the Declarant owns any property in the Community or has the right to unilaterally annex additional property to the Community), upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Association may annex other real property to the provisions of this Declaration describing the property to be annexed is located a Supplementary Declaration shall be signed by the President of the Association whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

10. Mortgagee Provisions. The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Section apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.

- a. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who

provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of :

- i. any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;
 - ii. any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;
 - iii. any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- b. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.
 - c. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.
 - d. VA/HUD Approval. As long as the Declarant has the right to appoint and remove the directors of the Association and so long as the project is approved by the U.S. Department of Housing and Urban Development ("HUD"), or the U.S. Department of Veterans Affairs ("VA"), for insuring or guaranteeing any Mortgage in the Community the following actions shall require the prior approval of the VA or HUD as applicable: annexation of additional property to the Community, except for annexation by Declarant in accordance pursuant to a plan of annexation previously approved by the VA or HUD as applicable; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; and material amendment of the Declaration, Bylaws or Articles of Incorporation.
 - e. Applicability of Section. Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or South Carolina law for any of the acts set out in this Section.
 - f. Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Section or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Section to be recorded to reflect such changes.

